

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>KEVIN WILSON and LESLIE WILSON, §</b>		
<b>Ind. And As Next Friend for §</b>		
<b>COLBY WILSON, a Minor, and §</b>		
<b>JAMES WILSON §</b>		<b>CIVIL ACTION NO: 2:09-CV-34 (TJW)</b>
	<b>§</b>	
<b>VS. §</b>		
	<b>§</b>	
<b>UNITED STATES POSTAL SERVICE §</b>		

**PLAINTIFFS' ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Plaintiffs, KEVIN WILSON and LESLIE WILSON, Ind. And As Next Friend for COLBY WILSON, a Minor, and JAMES WILSON, complaining of the UNITED STATES POSTAL SERVICE, Defendant, and for cause of action shows:

**PARTIES**

1. Plaintiffs, KEVIN WILSON and LESLIE WILSON, Ind. And As Next Friend for COLBY WILSON, a Minor, and JAMES WILSON, are individuals residing in Carthage, Panola County, Texas.

2. Defendant, UNITED STATES POSTAL SERVICE, (hereinafter "USPS"), is a government entity and may be served with process by delivering a copy of the summons and of the complaint to Rebecca A. Gregory, United States Attorney for the Eastern District of Texas, 110 North College, Suite 700, Tyler, Texas 75702.<sup>1</sup>

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<sup>1</sup> Rule 4, Fed. Rules of Civ. Proc.

**STATEMENT OF JURISDICTION AND VENUE**

3. Jurisdiction and venue are proper in this Court.

4. This Court has jurisdiction over the subject matter of this case because an agency of the United States is a Defendant to this suit pursuant to 28 U.S.C. §1346(b)(1) et seq. Therefore the Court has jurisdiction under 28 U.S.C. § 1331.

5. Venue is proper pursuant to 28 U.S.C.A. § 1391(e)(2), in that a substantial part of the events or omissions giving rise to the claim occurred within the Eastern District of Texas. Specifically, the accident made the subject of this suit occurred in the Eastern District of Texas, in Carthage, Panola County, Texas.

**COMPLIANCE WITH ADMINISTRATIVE PROCEDURES**

6. Plaintiffs have complied with applicable administrative procedures and regulation governing claims asserted under the *Federal Tort Claims Act*, including but not limited to 28 U.S.C. §2401; 28 U.S.C. §2671; 28 U.S.C. §2675; and 39 CFR 912.3 et seq. Plaintiffs provided written notice of their claims and an executed Standard Form 95 (along with supportive documents), to the United States Postal Service, Accident and Investigations & Tort Claims Coordinator, Dallas District, 951 West Bethel Road, Coppell, Texas 75099-9302 on or about April 4, 2008 by certified mail. The adjudication period of six (6) months has expired since the submission of the Plaintiffs' claims.

**FACTS**

7. This case involves personal injuries and property damage sustained by Kevin Wilson, Leslie Wilson, Colby Wilson (a minor) and James Wilson occurring on or about July 30, 2007 in

a motor vehicle collision in Carthage, Texas at or near the intersection of 100 W. Panola (US Hwy 79 B) and 100 N. St. Mary (US Hwy 59 B).

8. Specifically, the Plaintiffs were traveling around the square in Carthage, Texas and having approached a green traffic light, proceeded through the intersection when their vehicle was suddenly and unexpectedly hit by a United States Postal Service truck being driven by James Robert Taylor, Jr., who was conceivably on his delivery route, in the course and scope of his employment with the United States Postal Service. James Robert Taylor, Jr., failed to stop at a stop light causing the collision with the Plaintiffs' vehicle.

**CAUSES OF ACTION AGAINST DEFENDANT**

**COUNT I—Federal Tort Claims Act**

9. Plaintiff would show that Defendant USPS is liable for the negligent or wrongful acts of its employees committed within the scope of their employment.<sup>2</sup> James Robert Taylor, Jr., was on his regular mail route and was clearly an employee of the United States Postal Service and within the scope of his employment. James Robert Taylor, Jr., committed acts of carelessness, negligence, and negligence *per se* which were a proximate cause of this accident. Additionally, Plaintiffs would show that James Robert Taylor, Jr., violated Tex. Trans. Code §544.007, Tex. Trans. Code §545.351, Tex. Trans. Code § 545.352, and other sections, provisions, regulations, statutes, and/or publications as may become applicable during the course of this case and invokes the doctrine of negligence *per se*.

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<sup>2</sup> 28 U.S.C. §2671

**ACTUAL DAMAGES**

10. Defendant's conduct or that of its employee, James Robert Taylor, Jr., during the scope of his employment, was a producing cause of Plaintiffs' injuries and damages, and under Texas Law, is entitled to recover at least the following economic damages:

- a. Reasonable and necessary health care expenses incurred in the past;
- b. Reasonable and necessary health care expenses which, in all reasonable probability, will be incurred in the future;
- c. Physical pain and suffering in the past;
- d. Physical pain and suffering which, in all reasonable probability, will be endured in the future;
- e. Mental anguish suffered in the past;
- f. Mental anguish which, in all reasonable probability, will be suffered in the future;
- g. Physical disability/impairment, past and future;
- h. Disfigurement;
- i. Lost wages in the past and future loss of wage earning capacity;
- j. Loss of consortium endured by Plaintiffs Kevin Wilson and Leslie Wilson;
- k. Plaintiffs Kevin Wilson and Leslie Wilson have endured loss of household services of each other; and
- l. Plaintiff James Wilson has incurred loss of use of his truck as a result of this accident;

- m. Plaintiff James Wilson has incurred property damages are a result of this accident; and
- n. All other incidental and consequential damages, fees, and expenses. Plaintiffs seek compensatory damages in an amount in excess of the minimum jurisdictional limits of the Court, for which amount Plaintiffs now sue.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendant be duly cited to appear and answer herein as provided by law, and that upon final hearing the Plaintiffs have and recover judgment against Defendant in an amount that will reasonably compensate Plaintiffs for all of their damages, including prejudgment and postjudgment interest, costs of court, and all further relief to which they may show themselves to be entitled whether at law or in equity.

Respectfully submitted,

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